

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHANCHHAYAVAN T. CHOURB,

Petitioner,

v.

20-CV-1618-LJV
ORDER

JULIE WOLCOTT, *Superintendent,*
Orleans Correctional Facility,

Respondent.

The *pro se* petitioner, Chanchhayavan T. Chourb, is an inmate confined at the Orleans Correctional Facility (“Orleans”) in Albion, New York. He seeks relief under 28 U.S.C. § 2241, alleging that his conviction in the county court of Delaware County, New York, was unlawfully obtained. Docket Item 1. Chourb has paid the \$5.00 filing fee. For the reasons that follow, this Court transfers the matter to the United States District Court for the Northern District of New York.

Under 28 U.S.C. § 2241(d),

[w]here an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, *the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him* and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

Id. (emphasis added). Orleans is located within the Western District of New York; Delaware County, New York, and therefore its court, is located within the Northern District of New York. Venue properly lies in either district.

Nevertheless, this Court finds that the transfer of this matter to the Northern District would be “in furtherance of justice.” See *id.* All records relating to the petitioner’s underlying criminal conviction, and presumably any witnesses who might testify at a hearing other than the petitioner himself, are located in Delaware County. That makes the Northern District a more convenient venue. See *Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 499 (1973).

The Court leaves a decision on whether the petition for a writ of habeas corpus is properly brought under 28 U.S.C. § 2241 to the Northern District of New York.

ORDER

In light of the above, IT IS HEREBY ORDERED that the Clerk of the Court shall transfer this matter to the United States District Court for the Northern District of New York.

SO ORDERED.

Dated: December 3, 2020
Buffalo, New York

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE